

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

JUAN M. BARRERA,

Case No. 6:12-cv-01631-CL
ORDER

Plaintiff,

vs.

COMMISSIONER OF SOCIAL SECURITY,¹

Defendant.

AIKEN, Judge:

On June 7, 2018, Magistrate Judge Clarke filed his Findings and Recommendation (“F&R”), recommending that this Court grant in part plaintiff Juan Barrera’s Motion for Attorney Fees Pursuant to 42 U.S.C. § 406(b) and award plaintiff’s counsel \$41,951.52 in attorney’s fees. The F&R is now before me pursuant to 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72. I review *de novo* those portions of the R&R to which objection is made. 28 U.S.C. § 636(b)(1)(C); *accord* Fed. R. Civ. P. 72(b)(3); *Holder v. Holder*, 392 F.3d 1009, 1022 (9th Cir.

¹ Nancy A. Berryhill’s term as the Acting Commissioner of the Social Security Administration ended on November 17, 2017, and a new Commissioner has not been appointed. The official title of the head of the Social Security Administration is the “Commissioner of Social Security.” 42 U.S.C. § 902(a)(1). A “public officer who sues or is sued in an official capacity may be designated by official title rather than by name[.]” Fed. R. Civ. P. 17(d). I therefore refer to defendant only as Commissioner of Social Security.

2004). I find no error in Judge Clarke's careful and thorough opinion. I therefore ADOPT Judge Clarke's F&R (doc. 30). Plaintiff's counsel is entitled to \$41,951.52 in attorney's fees pursuant to 42 U.S.C. § 406(b). Subtracting the \$6,133.28 EAJA fee award previously granted to plaintiff's counsel, the Commissioner is directed to pay \$35,818.24 to plaintiff's counsel from the sum withheld by the Commissioner from plaintiff's benefits and pay the remainder to plaintiff.

IT IS SO ORDERED.

Dated this 25 day of June 2018.



Ann Aiken
United States District Judge